

# LAW AND THE ART WORLD

## Addressing concerns from the art community

By Bill Frazier ©2013

As I have stated in this column so many times over the years, readers' concerns seem to come in consistent clusters. For example, the most recent concerns seem to be about the status of public art and issues related to both the acquisition and removal of public art.

I do not know why these matters have come up now, but with the number of calls I am getting, they must affect a broad group of readers. Many of the concerns about the installation and maintenance of public art are addressed by the Visual Artists Rights Act of 1990 (VARA), which is incorporated in the copyright statutes in Title 17 of the United States Code. It can also be viewed at a number of internet sites; just look up the Visual Artists Rights Act.

These provisions carry many subjective nuances, such as applying to "works of recognized stature," and I would simply suggest that anyone involved in the acquisition of public art or with public art programs familiarize themselves with these restrictions.

Typically the term "public art" refers to items of artwork in public areas such as murals on buildings, statues in parks and in front of courthouses, artwork included in landscaping public property and art in public buildings, among other things. It can be donated work or work that is commissioned or purchased, either with public or private funding, and with projects often managed or promoted by museums or local or state arts councils. There are a variety of requirements and processes for these projects, frequently having to conform to state laws and administrative rules and regulations.

Arts organizations promoting such public art projects, as well as state and local governments benefiting from them – for example sculpture designed for a city park – should be aware of these requirements and the ongoing maintenance obligations. The artists creating the artwork should be aware of their rights and responsibilities, as well.

With such art projects, there is usually a jury committee or some other form of selection process. When such groups are appointed, it is very important that the artwork be selected carefully, because once installed

in a public venue it can be very difficult to remove – not impossible as some have said, but difficult.

Both public and artists' rights must be considered or legal liabilities and lawsuits can result. This is why I say that the original selection process for public art is so important. Once the work is accepted and installed by the public agency or government entity, artists' rights attach, and the work cannot be altered, destroyed or removed on a whim.

Questions often arise about what happens if a public artwork is vandalized. Under the VARA provisions, the artist must first be consulted about repair or restoration. Only if the artist refuses or is unable to restore the work, can another repair effort be considered.

It is also important for the purchasing agency as well as the artist to realize that the artist can waive these VARA rights in writing. Some agencies require the waiver but many others do not, recognizing the public policy of protecting artists' rights in the integrity of their work commissioned for public installation.

For further information, I suggest the Copyright Office website, [www.copyright.gov](http://www.copyright.gov), which is quite helpful, or any of the numerous articles about the VARA on the internet.

### Support your local gallery

We are all aware of the transitions in the way artwork is sold. Traditionally, it has moved through galleries, but now, more and more, art is being sold at auction and over the internet.

While these are perfectly good sources, it is important to recognize the value and resources provided by both commercial and nonprofit galleries across the country. Such galleries have provided support to many emerging, as well as established artists, and have been important business elements of local communities.

In this economy, more and more galleries have gone out of business. As this has happened, access to art and art education has diminished. The artists have lost access to sales and exhibitions and the general public, both buyers and lookers, have lost access to the art.

Support your local gallery and the artists



Bill Frazier

they represent. Such businesses pay taxes, support the local community and stand behind the work they sell.

### Revisiting federal tax laws

In my last column, I commented at length about changes in our federal tax laws that are now in effect, and the importance of getting good tax advice. I also spoke about the requirement for appraisals with certain gifts of artwork to museums and other institutions.

A careful reader noted that I used the term "certified" relating to the appraisal when I should have said "qualified." A qualified appraisal is what the IRS requires for certain gifts to be deductible as charitable donations.

I also reemphasize the importance of all tax-exempt organizations conforming to current IRS requirements for reporting and filing informational tax returns. Failure to do so can adversely affect the 501(c)(3) designation.

Once a non-profit organization loses that tax-exempt designation, it can be very difficult to get it restored. Those of you who are members of such organizations must insure that your officers comply with the tax and reporting requirements, all of which must now be done by e-filing.

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### Advice on Facebook privacy setting

Make sure your Facebook account isn't exposing more than you want by double-checking your Privacy Settings.

Here's how: Go to your Facebook home page. On the upper right-hand side, click the padlock icon. Look at "Who can see my stuff" and click "Friends." Then at the bottom of that menu click "See More Settings."

On that new screen, look on the left and click the "Ads" link. Click "No One" from the "Third Party Sites" and "Ads and Friends" dropdown menus.

This means that your photos and info may not be used in advertisements.

## Tech Talk: Self-hosting a WordPress website

By Mark Ratledge

Over the last few issues, I covered the steps of signing up for an account at WordPress.com in order to start a free website for yourself or your arts organization. I also covered the differences in the two ways of using WordPress: either free at [wordpress.com](http://wordpress.com), or as your own web host.

I received some questions about the second method called self-hosting, so I'm covering more of that this time.

If you started using the free version of WordPress at [wordpress.com](http://wordpress.com) and found you needed more capabilities than the completely free version offers – such as e-commerce, the need to use advertisements or develop custom functions for your business or organization – you can still use WordPress, but you need to run it on your own server.

The difference is that you take a copy of the same free WordPress software and put it on your own web server. And to do that, you need what's called a web host. A web host is an online business that provides space on a web server for your website. A web host will handle most everything that is required for around \$80-\$100 a year.

There are many web hosts out there, but it's best to go with a large, national host that has a good reputation and a track record for support. (Bluehost is a good one.)

Another benefit of a good web host is that they will offer "one click" installers for WordPress, and that makes using WordPress yourself even easier. That's because running WordPress on your own server requires you to install it. At [wordpress.com](http://wordpress.com), all that is done for you; but with your own copy of WordPress, you're responsible for installing it. It's not hard: with one click in the web-hosting control panel, WordPress will be installed for you.

A good web host will also offer help and support with some aspects of WordPress, as well as other things you can do with your own website, like working with email accounts, your domain, and more.

Once you have WordPress installed, you can work with the same, easy-to-use administrative area and install themes – the design aspect of the site – and any plug-ins you need.

If you started with WordPress.com, you might notice a few things missing, but all of those can be duplicated with plug-ins. The other things that will be "missing" are limits on what you can do; with self-hosting, you can do much more than at [wordpress.com](http://wordpress.com).

If you're using [wordpress.com](http://wordpress.com), there is help available in the tech-support

forums where you can search for answers to questions you have or ask your own questions. Go to [support.wordpress.com](http://support.wordpress.com).

With self-hosted WordPress, there is still plenty of help available, but in different forums at [wordpress.org/support](http://wordpress.org/support), and that's where you can get help with installation, themes, plug-ins and questions about custom coding.



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